



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466

OCT 05 1992

Ref: 8WM-C

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Bill Hansen
Vice President of Manufacturing
The Melroe Company
210 1st Avenue Northeast
Gwinner, North Dakota 58040

Re: Findings of Violation and
Order for Compliance;
Docket No. CWA-VIII-93-03-C

Dear Mr. Hansen:

Enclosed herein is a Findings of Violation and Order for Compliance ("ORDER"), Docket Number CWA-VIII-93-03-C, which makes findings that The Melroe Company (hereinafter, "Melroe") has failed to comply with the Pretreatment Regulations at 40 CFR Parts 403 and 433, as promulgated pursuant to Sections 306 and 307 of the Clean Water Act. The ORDER requires Melroe to immediately take all actions necessary to achieve full compliance with Pretreatment Regulations.

Failure to comply with the requirements of the ORDER shall constitute a violation of said ORDER. If you have any questions regarding this letter, the enclosed ORDER, or any other matters pertinent to Melroe's compliance with the Clean Water Act, please contact Linda Jacobson at (303) 293-1263. Your cooperation in this matter is most appreciated.

Sincerely,

Max H. Dodson, Director
Water Management Division

Enclosure

cc: Sheila McClenathan, NDDHCL
Kent Johnson, City of Gwinner

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EPA Region VIII
Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII

IN THE MATTER OF INDUSTRIAL)	DOCKET NUMBER CWA-VIII-92-23-C
PRETREATMENT VIOLATIONS AT)	FINDING OF VIOLATION
THE MELROE COMPANY)	AND
GWINNER, NORTH DAKOTA)	ORDER FOR COMPLIANCE
58040)	[33 U.S.C. §1319 (a) (3)]

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STATUTORY AUTHORITY

This Order is issued pursuant to Section 309(a) (3) of the Clean Water Act (hereinafter, the "Act"), 33 U.S.C. §1319 (a) (3), which authorizes the Administrator of the United States Environmental Protection Agency (hereinafter, the "EPA") to issue an order requiring compliance by any person found to be in violation of §301, §302, §306, §307, §308, or §405 of the Act, or in violation of any implementing regulation or provision of these Sections of the Act. This authority has been delegated to the Director, Water Management Division, Region VIII.

This Order is based on findings resulting from an Industrial User Compliance Inspection of the Melroe Company, conducted on March 19, 1992, in Gwinner, North Dakota, and information provided in the March 17, 1992, response to an EPA Section 308 request for information.

FINDINGS OF FACT

1. The Melroe Company, (hereinafter, "Melroe") owns a production facility at 210 1st Avenue NE, Gwinner, North Dakota. As such, Melroe is a "person" under Section 502(5) of the Act, 33 U.S.C. §1362(5).

2. Melroe is primarily a manufacturer of skid steer front end loaders and related attachments. As part of its manufacturing processes, Melroe performs bead blasting, shearing, stamping, bending, machining, milling, tumbling, welding, thermal cutting, grinding, assembly, testing, alkaline cleaning, acid treating, iron phosphating, phosphate sealing, and painting. Wastewaters generated from these activities are subject to National Pretreatment Standards for Metal Finishing at 40 CFR Part 433. Water from this process is discharged into a Publicly Owned Treatment Works (hereinafter, "the POTW") as defined by Section 212 of the Act, 33 U.S.C. §1292, and operated by the City of Gwinner.

3. The POTW owns and operates a wastewater treatment facility (WWTF) which discharges effluent into an unnamed drainage. The unnamed drainage is considered a "water of the United States" within the meaning of Section 502(7) of the Act, 33 U.S.C. §1362(7).

4. The POTW is authorized to discharge effluent into an unnamed drainage by the National Pollutant Discharge Elimination System (NPDES) Permit Number ND-0020010 (hereinafter, "the Permit"). The Permit was issued on October 1, 1989, pursuant to §402 of the Act. The Permit implements National Secondary Treatment Standards promulgated pursuant to §301 of the Act. The POTW is subject to all terms and conditions of the Permit.

5. Section 307(b) of the Act, 33 U.S.C. §1317(b), directs the Administrator of the EPA to establish pretreatment standards applicable to indirect discharges to control those pollutants which are determined not to be susceptible to treatment by a POTW. The Act requires the Administrator of EPA to establish standards of performance for certain industrial categories. These standards are to be based on the technology available to treat wastewaters generated by facilities involved with each categorical industry.

6. On July 15, 1983, EPA published technology-based performance standards for facilities discharging metal finishing waste into any POTW (See 40 CFR Part 433). The discharge limitations outlined by the 40 CFR 433 Metal Finishing performance standards for existing sources (i.e., industrial facilities that were in operation or began construction of regulated processes prior to August 31, 1982), which are applicable to Melroe, since production began in 1966, are as follows:

<u>PARAMETER</u>	<u>DAILY MAX LIMITATION</u>	<u>MONTHLY AVE LIMITATION</u>
Cadmium, Total	0.69 mg/L	0.26 mg/L
Chromium, Total	2.77 mg/L	1.71 mg/L
Copper, Total	3.38 mg/L	2.07 mg/L
Lead, Total	0.69 mg/L	0.43 mg/L
Nickel, Total	3.98 mg/L	2.38 mg/L
Silver Total	0.43 mg/L	0.24 mg/L
Zinc, Total	2.61 mg/L	1.48 mg/L
Cyanide, Total	1.20 mg/L	0.65 mg/L
Cyanide, Amenable	0.86 mg/L	0.32 mg/L
Total Toxic Organics	2.13 mg/L	--

7. Under the provisions at 40 CFR Section 403.8, the POTW may develop and apply for approval of a locally implemented Industrial Pretreatment Program. Upon its approval by EPA, the responsibility to apply and enforce the standards described in paragraph 6 is transferred to the POTW. Until such transfer, EPA is the "Control Authority" for enforcing the Federal Pretreatment Standards. The POTW has not applied for such approval and, consequently, EPA remains the "Control Authority".

8. In accordance with the administrative provisions at 40 CFR §403.12(b), any facility subject to a technology-based Pretreatment Standard must file a Baseline Monitoring Report (BMR) within 180 days after the date of promulgation of that Pretreatment Standard. The BMR consists of the following:

- a. Name and address of the facility;
- b. A list of all environmental control permits held by the facility;
- c. A description of the nature of the operation(s) conducted at the facility;
- d. Flow measurements of the process streams discharged to the POTW;
- e. Identification of the Pretreatment Standards applicable to each regulated process and results of samples taken to measure the discharge of pollutants;
- f. A certification statement of the facility's compliance status with each applicable Pretreatment Standard; and,
- g. If not currently in compliance with all applicable standards, a schedule describing the actions the facility will take and a timetable for completing those actions necessary to achieve compliance with the standard as soon as practicable. The schedule must specify increments of progress in the form of dates for the commencement and completion of major events.

9. The BMR due date for facilities subject to the Metal Finishing Requirements at 40 CFR 433 was February 24, 1984. For facilities having properly submitted the BMR, the compliance deadline for full conformance with the Metal Finishing Pretreatment Standards at 40 CFR Part 433 was February 15, 1986.

10. Section 403.12(d) of the General Pretreatment Program Regulations requires that any user subject to Categorical Pretreatment Standards submit a report on compliance with those standards within 90 days following the compliance deadline for that standard.

11. Section 403.12(e) of the General Pretreatment Program Regulations requires that any user subject to Categorical Pretreatment Standards submit each June and December periodic compliance reports which provide information on the nature and concentration of pollutants discharged to the POTW.

12. On March 19, 1992, EPA conducted an Industrial User Compliance Inspection of Melroe. Based on information obtained during that inspection, it was determined that metal finishing wastewaters generated at the Melroe facility were being discharged into the POTW. In a March 17, 1992, response to an EPA Section 308 Request for Information, Melroe provided further information which documents that Melroe is subject to, but not in compliance with, Metal Finishing Pretreatment regulations.

13. Melroe is in violation of Section 307(d) and its implementing regulations in that Melroe has failed to comply with

the reporting requirements of the General Pretreatment Program Regulations at 40 CFR Section 403.12(b), (d) and/or (e).

ORDER

Based upon the foregoing Findings, and pursuant to the authority of Section 309(a)(3) of the Act, 33 U.S.C. §1319(a)(3), it is hereby ordered that:

1. Melroe immediately comply with the discharge limitations for existing source Metal Finishing specified by 40 CFR 433.15.

2. Melroe immediately take all actions necessary to achieve full compliance with all applicable National Pretreatment Standards for Metal Finishing including all related reporting requirements.

3. Within ten (10) days of its receipt of this Order, Melroe shall give written notice to this Agency of its intent to comply with the requirements of the Order.

4. Within ten (10) days of its receipt of this Order, Melroe shall submit the following information for the time period from 1984 through June 1992:

a. copies of any completed Baseline Monitoring Reports (BMRs).

b. a copy of any completed 90-day Compliance Report.

c. copies of any completed Periodic Compliance Reports.

5. Within thirty (30) days of the date of its receipt of this Order, Melroe shall submit the following information:

- a. The correct names and addresses of the facility located in Gwinner. Please also indicate date the facility began operations at its current location.
- b. The name of the manager of the facility and the person(s) responsible for compliance with environmental requirements. Please include the title, address and telephone number for any person identified.
- c. A listing of any environmental control permits or identifications held by or for the facility. This includes any permits for air, water, solid waste, etc.
- d. A complete description of the type of operations conducted at the Melroe facility including, but not limited to the following:
 - i. The principal product(s) produced at the facility;
 - ii. The average rate of production;
 - iii. The appropriate SIC code(s) for the facility;
 - iv. A schematic process diagram and flow balance indicating points of discharge of any process generated wastewaters to the municipal sewer system, any stream and/or storm drain;
 - v. A description of the wastewater treatment systems currently used at the facility;
 - vi. A listing of any chemical compounds (such as cleaning, lubricating, or surface prepping compounds) which have the potential for entering the production system prior to sending such wastewater to treatment or disposal. Please include the Material Safety Data Sheets for these compounds.
 - vii. All monitoring data both wastewater and process-related, which would indicate quality of the discharge to the POTW. Include a description of all monitoring points and the methods used in each analyses.
- e. A discussion as to the manner in which all generated solid wastes are disposed.
- f. Copies of all letters, directives, telephone records, or other communications from the City of Gwinner, regarding possible violations of applicable local, state, or federal pretreatment regulations. Also, include all communications from the City of Gwinner,

regarding Melroe discharges which may be interfering with or disrupting the operation of the Gwinner POTW.

6. Within ten (10) days of the date of its receipt of this Order, Melroe shall commence a continuous sampling program to provide information on the quality of its discharge to the POTW. At a minimum, the sampling program shall be for the parameters and at the frequency and sample type as follows:

<u>Parameter</u>	<u>Frequency</u>	<u>Sample Type</u>
Flow, gpd	Daily	Recorder a/
Total Cadmium (mg/L)	Monthly	Composite b/
Total Chromium (mg/L)	Monthly	Composite
Total Copper (mg/L)	Monthly	Composite
Total Lead (mg/L)	Monthly	Composite
Total Nickel (mg/L)	Monthly	Composite
Total Zinc (mg/L)	Monthly	Composite
Total Cyanide (mg/L)	Monthly	4 Grabs c/
pH, units	Daily	Recorder a/
Total Toxic Organics (TTO)	Semi-annually	4 Grabs c/

- a/ The continuous recorders for flow and pH must be installed as soon as possible, but in no event later than 120 days from the date of Melroe's receipt of this Order. Until these monitors are installed, Melroe shall take daily measurements for flow and pH.
- b/ The composite sample must be representative of the quality of the discharge. The composite shall consist of a minimum of four (4) separate grab samples taken at two (2) hour intervals and proportioned as to flow.
- c/ Four (4) separate grab samples shall be taken each sample day. The results of the analysis of the four samples shall be averaged in proportion to the flow rate at the time of the sample.

Samples and measurements taken as required by this Order shall be representative of the volume and nature of the monitored discharge. All samples shall be taken before the process generated wastewater effluent either joins or is diluted by any

other dilution stream, water or substance. Test procedures for the analysis of pollutants shall conform to regulations published pursuant to Section 304(h) of the Act.

7. The results of discharge samples shall be reported on the enclosed Discharge Monitoring Report forms and submitted on a monthly basis to the addresses listed in paragraph 9 of this Order. The reports must be postmarked no later than the 28th of the following month. The first report is due November 28, 1992.

8. Within sixty (60) days of the date of its receipt of this Order, Melroe shall submit the following information:

- a. Identification of all National Categorical Pretreatment Standards which currently apply to the facility located in Gwinner.
- b. Copies of any completed Baseline Monitoring Reports (BMRs) which have been prepared as required at 40 CFR 403.12. (Please refer to the regulations for an explanation of the required elements of this report). If no BMR has yet been completed, such a report must be prepared and submitted within 60 days. EPA further requests the costs associated with preparation of the BMR (sample collection and analysis, report preparation, etc.) also be submitted with the BMR.
- c. A listing of all discharges to the sewer which might contain any of the following:
 - i. Pollutants which create a fire or explosion hazard in the sewer;
 - ii. Pollutants which will cause corrosive structural damage to the sewage treatment works or sewer collection system (including, but not limited to, any discharge with a pH lower than 5.0);
 - iii. Solid or viscous pollutants in amounts which will cause an obstruction to the flow in sewers, or other interference with operation of the treatment facilities;
 - iv. Any pollutant, including toxic and/or oxygen demanding pollutants (BOD₅, etc.), released in a

- discharge at such volume or strength as to cause interference in the sewage treatment plant;
- v. Heat in amounts which will inhibit biological activity in the wastewater treatment plant; and,
 - vi. Any materials listed as hazardous waste under the Resource Conservation and Recovery Act regulations at 40 CFR 261.
- d. A description of how the company manages the treatment and/or disposal of solid waste.
 - e. A summary description of Melroe's expenditures since April 27, 1984 for pretreatment systems and the need for additional expenditures to assure continual compliance with its applicable pretreatment requirements.
 - f. All monitoring data collected pursuant to Paragraph 6 of the Order.
9. All written notices and reports required by this Order shall be sent to the following addresses:

Mr. Steve A. Burkett, P.E.
Chief, NPDES Branch (8WM-C)
Water Management Division
U. S. Environmental
Protection Agency
999 18th Street, Suite 500
Denver, Colorado 80202-2405


Ms. Sheila McClenathan
Program Manager
Water Supply & Pollution Control
North Dakota Department of Health
and Consolidated Laboratories
State Department of Health
P.O. Box 5520
Bismarck, North Dakota 58502-5520

Mr. Kent Johnson
Sewage Works Superintendent
P. O. Box 425
Gwinner, North Dakota 58040

10. This Order shall terminate on November 1, 1993, or when full compliance (for six consecutive months) with all applicable National Pretreatment Standards is demonstrated, whichever is later. Upon termination of this Order, Melroe's continuous sampling program shall consist of the minimum number of samples required to adequately demonstrate its compliance status with all applicable regulations.

11. Nothing in this Order shall be construed to preclude the institution of further action under §309(c), 309(d), or 309(g) of the Act for those violations cited herein or to relieve Melroe from any responsibilities, liabilities, or penalties established pursuant to any applicable Federal and/or State law or regulations.

Dated: This 5th day of October 1992.


Max H. Dodson, Director
Water Management Division
U.S. Environmental
Protection Agency
Denver Place
999 18th Street, Suite 500
Denver, Colorado 80202-2405